

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Bilal A. Al-Haqq,) C/A No. 2:17-cv-535-DCC

)

Plaintiff,)

)

vs.)

)

ORDER

A.W. Dean, Major Chavalus, Capt. Pat, Capt.)

Coleman, Capt. Commander, Lt. Redding, Sgt.)

Canty, Ofc. Graham, Ofc. Pressley, Ofc. Ragan,)

Ofc. Kennedy, Dr. Alden, Dr. Lemon,)

Defendants.

This matter is before the Court on Plaintiff's Complaint alleging violations of civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. Defendant Dr. Lemon filed a Motion to Dismiss for failure to state a claim and for lack of jurisdiction. ECF No. 27. A *Roseboro* order was entered by the Court and mailed to Plaintiff, advising Plaintiff of the importance of a dispositive motion and the need for Plaintiff to file an adequate response. ECF No. 28. Plaintiff filed a Response in Opposition to the Motion to Dismiss, ECF No. 64, and Defendant Dr. Lemon filed a Reply, ECF No. 68. This Motion is now ripe for resolution.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report"). On November 29, 2017, the Magistrate Judge issued a Report recommending that Defendant Dr. Lemon's Motion to Dismiss be granted. ECF No. 69. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and

the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation that Defendant Dr. Lemon’s Motion to Dismiss be granted. Accordingly, the Court adopts the Report by reference in this Order. Defendant Dr. Lemon’s Motion to Dismiss [27] is granted without prejudice.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

December 20, 2017
Spartanburg, South Carolina